

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**ALEC FABER**, individually and on behalf of  
all others similarly situated; and **AHNAF  
RAHMAN**, individually and on behalf of all  
others similarly situated,

Plaintiffs,

No. 3:20-CV-0467 MAD/ML

v.

**CORNELL UNIVERSITY**,

Defendant.

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Plaintiffs Alec Faber and Ahnaf Rahman (“Plaintiffs”) and Defendant Cornell University (“Defendant”) (collectively, “the Parties”), respectfully submit this joint status report pursuant to the Court’s April 21, 2021 Pretrial Scheduling Order, and in advance of the status hearing before Magistrate Judge Miroslav Lovric set for June 29, 2021 at 10:00 a.m. (*See* Dkt. 64-65.)

The parties last appeared before the Court on April 21, 2021. Following that hearing, the Court set a further status hearing for June 29, 2021. This joint status report provides the Court an update and/or the Parties’ positions on the following: (A) pending motions; (B) written discovery; (C) the Parties’ potential Protective Order; and (D) the Parties’ potential ESI Protocol.

**A. Pending Motions**

1. On March 17, 2021, Defendant filed its motion for partial reconsideration of the order on its Motion to Dismiss. That motion was fully briefed as of April 12, 2021, no oral argument has been conducted, and the motion remains pending at this time. The scope of discovery is currently uncertain given the pendency of the motion potentially dispositive of substantive issues in the action. There are no other pending motions.

**B. Status of Written Discovery**

2. On March 31, 2021, Plaintiffs served Defendant their first sets of requests for production of documents and interrogatories. On May 3, 2021, Defendant answered Plaintiffs' interrogatories and requests for production. Defendants have collected an initial production of documents in response to Plaintiffs' requests, but are awaiting entry of a Confidentiality Stipulation and Protective Order and Plaintiffs' agreement on an ESI protocol before any production set can be finalized and released.

3. On May 10, 2021, Defendant propounded its first set of interrogatories on Plaintiffs. Plaintiffs' responses were due by June 14, 2021. Defendant has agreed to an extension making those responses due on July 14, 2021.

4. On May 17, 2021, Defendant issued its first set of requests for production of documents to Plaintiffs. On June 16, 2021, Plaintiffs responded to Cornell's requests for production of documents. Plaintiffs have indicated more documents may be supplemented.

**C. Protective Order**

5. During the parties Rule 26(f) conference on March 25, 2021, the parties agreed that they would jointly seek an appropriate Protective Order in this matter.

6. Defendant's counsel prepared a draft Confidentiality Stipulation and Protective Order, attached as **Exhibit A** to this Report, shared it with Plaintiffs' counsel on May 3, 2021, and followed up for Plaintiffs' comments on June 14, 2021. Defendant's position is that the draft is comprehensive and appropriate, and should be entered by the Court as the Protective Order governing this action. Plaintiffs' position is that there are points in the draft to negotiate.

**D. ESI Protocol**

7. Defendant's counsel shared a draft ESI Protocol with Plaintiffs' counsel on June 16, 2021, and is awaiting a response. Defendant's position is that the parties need to reach an agreement on an ESI protocol (governing, for example, the metadata fields that will be produced and the manner of production) before producing ESI, in order to manage the costs of discovery and avoid unnecessary duplicative or supplemental productions. Plaintiffs' position is that there are points in the proposal to negotiate.

Dated: June 18, 2021

Respectfully Submitted,

/s/ Paul B. Rietema

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